

REMARKS

Claims 25-46 are pending in this Application. Claims 14, 17, 18, 19, and 21 are independent. By this Amendment, claim 42 is amended to correct a minor typographical error. Thus, no new matter is added.

Claim Rejection Under 35 USC §103

Claims 25-46 are rejected under 35 USC §103(a) as unpatentable over US Patent 5,026,452 Kodai in view of US Patent Application Publication 2005/0085005 to Droz. The rejection is respectfully traversed.

It is admitted in the Office Action that the primary reference of Kodai fails to disclose all of the features of the rejected claims. In an effort to overcome the admitted deficiencies, Droz is combined with Kodai and it is alleged that it would have been obvious at the time of the invention to modify the device of Kodai according to the teachings of Droz.

However, Droz is not a valid prior art reference and therefore may not be used to establish *prima facie* obviousness. For example, Droz is not prior art "by another" because the reference and the present application are by the same person. Therefore, Droz fails to qualify as prior art under either 35 USC §102(a) or §102(e). Further, the present application is entitled to its PCT filing date of October 10, 2003 as its constructive U.S. filing date. Droz was not published until June 19, 2003 (in French) and therefore was not published more than one year prior to the US filing date of the present application. As such, Droz also fails to qualify as prior art under 35 USC

§102(b). Because Droz fails to qualify as prior art under 35 USC §102, the reference may not be used in a rejection under 35 USC §103.

Accordingly, the combination of references cannot disclose or suggest all of the features recited in the rejected claims. Because a *prima facie* case of obviousness has not been established, withdrawal of the rejection is respectfully requested.

CONCLUSION

In view of the above, Applicant earnestly solicits reconsideration and allowance of all of the pending claims.

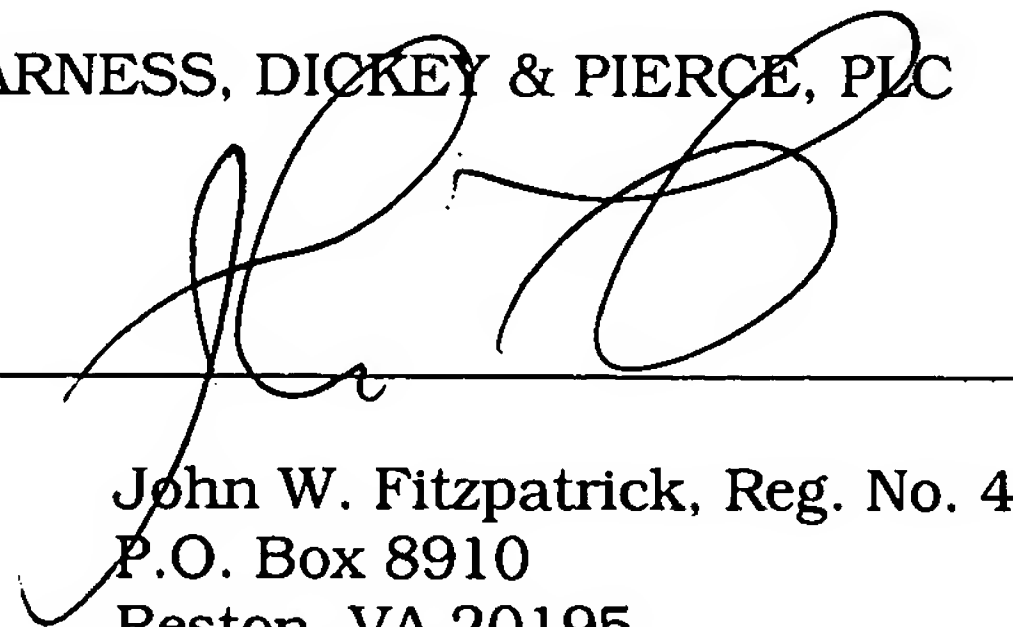
Should there be any matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the telephone number of the undersigned below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

HARNESS, DICKEY & PIERCE, PLC

By

A handwritten signature in black ink, appearing to be 'John W. Fitzpatrick', is written over a horizontal line. The signature is stylized with large loops and a long horizontal stroke extending to the right.

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